

**REMARKS**

**Allowable Subject Matter**

Applicants wish to thank the Examiner for indicating that the subject matter of claims 1-12 is allowable. Further, Applicants note the Examiner's comments that claims 14-17 would be allowable if rewritten in independent form. However, Applicants respectfully submit that claims 14-17 are allowable in their present form for the reasons set forth below

**The Section 103 Rejections**

Claims 13 and 18-20 were rejected as allegedly being unpatentable over Al-Salameh et al. (US Patent No. 6,317,213, hereinafter "Al-Salameh"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention include the feature of assigning a plurality of wavelengths to a test path. In contrast, Al-Salameh fails to teach or suggest such assignments.

In more detail, Al-Salameh discloses out-of-service (OOS) and in-service (IS) test modes neither one of which includes the assignment of a plurality of wavelengths to a test path. Instead, the OOS mode transmits a pilot signal at a single wavelength over multiple paths while the IS mode does not assign a wavelength or transmit a signal whatsoever.

Further, because Al-Salameh relies upon either the transmission of a single wavelength or no wavelength at all, Applicants submit that the subject matter of claims 13 and 18-20 would not have been obvious to one of ordinary

skill in the art at the time the present application was filed based on the disclosures in Al-Salameh.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By  \_\_\_\_\_

John E. Curtin, Reg. No. 37,602  
P.O. Box 1995  
Vienna, Virginia 22183  
(703) 266-3330